

**Kansas Corporation Commission**  
**Commission Meeting**  
**January 9, 2018**  
10:00 a.m. 1<sup>st</sup> floor hearing room  
KCC Offices, 1500 Arrowhead, Topeka, Kansas

**MINUTES**

The Commission convened the regularly scheduled open meeting of the Commission at 10:00 a.m. on January 9, 2018 in the 1<sup>st</sup> floor hearing room of the Kansas Corporation Commission, 1500 Arrowhead, Topeka, Kansas.

Present: Chairman Apple, Commissioner Albrecht and Commissioner Emler. The following were considered by the Commission:

1. **Consent Agenda:** Commissioner Albrecht moved for approval of the Items on the Consent Agenda dated January 9, 2018 containing pages one through four and are attached to these Minutes. Commissioner Emler seconded the motion.

The motion was approved.

2. **Noticed:**

- A. **Docket No. 18-GIME-217-GIE**

*In the Matter of a General Investigation to Determine the Commission's Jurisdiction Over Municipal Energy Agencies*

Commissioner Emler moved for approval of order #18-0026 *Order on Jurisdiction*.  
Commissioner Albrecht seconded the motion.

The motion was approved.

- B. **Docket No. 16-KCPE-325-TAR**

*In the Matter of the Application of Kansas City Power & Light Company for Approval of Residential All-Electric Rider Tariff.*

Commissioner Emler moved for approval of order #18-0028 – *Order on Motion to Withdraw Application*. Commissioner Albrecht seconded the motion.

The motion was approved.

- C. **Docket No. 18-CONS-3205-CUIC**

*In the Matter of the Application of Larson Engineering, Inc. dba Larson Operating Company, to authorize injection of saltwater into the Pleasanton and Altamont formations at the Danis #1-21 well, located in Section 21, Township 18 South, Range 29 West, Lane County, Kansas.*

Commissioner Emler moved for approval of order #18-0032 – *Order Granting Motion to Dismiss*. Commissioner Albrecht seconded the motion.

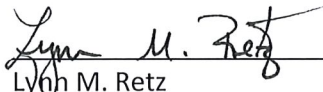
The motion was approved.

3. Discussion/Presentation Item(s):

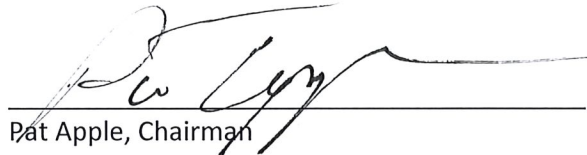
- A. Ryan A. Hoffman, Conservation Division Director, presented additional information on Staff's Report and Recommendation on necessary amendments to K.A.R. 82-3-206 and 82-3-307. The updated report is attached to these minutes. After discussion on the updated information, the consensus by Chairman Apple, Commissioner Albrecht and Commissioner Emler was for Mr. Hoffman to move forward with filing a Motion to Open a General Investigation.

There being no further matters before the Commission, Commissioner Emler moved for adjournment of the Commission meeting. Commissioner Albrecht seconded the motion. The motion was approved. The Commission adjourned the January 9, 2018 Commission Meeting at 10:32 a.m.

Respectfully submitted,



Lynn M. Retz  
Secretary to the Commission



Pat Apple, Chairman



Shari Feist Albrecht, Commissioner



Jay Scott Emler, Commissioner



## ITEMS OF Consent Agenda

Approval Date: Tuesday, January 9, 2018

NOTICE TO THE PUBLIC: There will be no separate discussion of Consent Agenda items as they are considered to be routine by the Kansas Corporation Commission. Unless removed from the website's Consent Agenda, the orders appearing on the Consent Agenda will become the Order of the full Commission at the Commission's regularly scheduled Business Meeting. If Commission staff or a Commissioner requests an item be removed from the Consent Agenda, the affected item may be considered separately or placed on the earliest possible Business Meeting agenda for discussion.

### Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
1	In the Matter of the Regulation of Public Utilities and Common Carriers, and providing means for Paying Certain Costs and Expenses in Connection with such Regulation, as provided in K.S.A. 66-1501 to 66-1510. <i>Order Assessing Commission Costs Pursuant to K.S.A. 66-1503</i>	18-ALLX-243-ASM	
2	In the Matter of the Regulation of Public Utilities and Common Carriers, and Providing Means for Paying Certain Costs and Expenses in Connection with Such Regulation, as Provided in K.S.A. 66-1501 to 66-1510. <i>Order Assessing CURB Costs Pursuant to K.S.A. 66-1503</i>	18-ALLB-244-ASM	
3	In the Matter of the Application of Sunflower Electric Power Corporation and Kansas Electric Power Cooperative, Inc. for an Order Approving a New Wholesale Power Agreement. <i>Order Approving Wholesale Power Agreement Rate</i>	06-SEPE-1203-CON	
4	In the Matter of the Application of Southern Pioneer Electric Company Seeking Commission Approval for Ad Valorem Tax Surcharge Rider Tariff Adjustments for 2018. <i>Order Granting CURB's Petition to Intervene, Protective Order and Discovery Order</i>	18-SPEE-270-TAR	

## Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
5	In the Matter of the Investigation of Inman Irrigation Specialists, Inc. of Inman, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. <b>Order Amending Penalty Assessment</b>	18-TRAM-192-PEN	
6	In the Matter of the Investigation of AA Fishing Tool & Rental, LLC of Great Bend, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. <b>Order Amending Penalty Assessment</b>	18-TRAM-211-PEN	
7	In the Matter of the Investigation of Unruh Trucking LLC of Galva, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. <b>Order Amending Penalty Assessment</b>	18-TRAM-213-PEN	
8	In the Matter of the Investigation of Houser Custom Ag, Inc. of Solomon, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. <b>Penalty Order</b>	18-TRAM-260-PEN	
9	In the Matter of the Investigation of Capital Trucking, LLC of Topeka, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. <b>Penalty Order</b>	18-TRAM-266-PEN	
10	In the Matter of the Investigation of Slaubaugh Tractor, LLC of Hays, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. <b>Penalty Order</b>	18-TRAM-268-PEN	
11	In the Matter of the Investigation of Atmos Energy Corporation of Olathe, Kansas, Regarding Violation(s) of the Kansas Underground Utility Damage Prevention Act (KUUDPA) (K.S.A. 66-1801, et seq., and K.A.R. 82-14-1 through 82-14-6), and the Commission's Authority to Impose Penalties and/or Sanctions (K.S.A. 66-1,151). <b>Penalty Order</b>	18-DPAX-274-PEN	
12	In the Matter of the Investigation of River Valley Landscape of Topeka, Kansas, Regarding Violation(s) of the Kansas Underground Utility Damage Prevention Act (KUUDPA) (K.S.A. 66-1801, et seq., and K.A.R. 82-14-1 through 82-14-6), and the Commission's Authority to Impose Penalties and/or Sanctions (K.S.A. 66-1,151). <b>Penalty Order</b>	18-DPAX-275-PEN	

## Consent Agenda

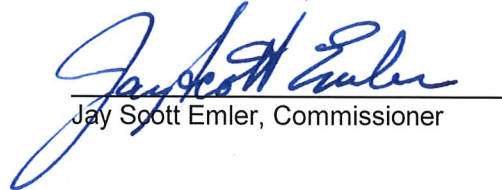
ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
13	In the Matter of the Investigation of Crossland Construction Company, Inc. of Wichita, Kansas, Regarding Violation(s) of the Kansas Underground Utility Damage Prevention Act (KUUDPA) (K.S.A. 66-1801, et seq., and K.A.R. 82-14-1 through 82-14-6), and the Commission's Authority to Impose Penalties and/or Sanctions (K.S.A. 66-1,151). <b><i>Penalty Order</i></b>	18-DPAX-276-PEN	
14	In the matter of the application of Merit Energy Company, LLC, for an exception to the 10-year time limitation of K.A.R. 82-3-111 for its Hoffman J-2 well in the South Half of the South Half of the Northeast Quarter of the Southwest Quarter of Section 35, Township 27 South, Range 36 West, Grant County, Kansas. <b><i>Order Granting Application</i></b>	18-CONS-3117-CEXC	
15	In the matter of the application of Bee Gee Exploration Company for an order establishing 160 acre spacing for the Mississippian Chert Formation underlying lands in Stafford and Reno Counties, Kansas.  In the matter of the application of Raymond Oil Company, Inc. for an order to extend field limits for the Mississippian Chert Formation underlying lands in Stafford and Reno Counties, Kansas. <b><i>Order Designating Prehearing Officer and Setting Prehearing Conference</i></b>	17-CONS-3506-CBSO	
16	In the matter of the failure of Benjamin M. Giles ("Operator") to comply with K.A.R. 82-3-104 and K.A.R. 82-3-111 at the Flying J Geer #2 OWWO well in Butler County, Kansas. <b><i>Order Continuing Procedural Deadlines and Evidentiary Hearing</i></b>	17-CONS-3684-CPEN	
17	In the matter of the failure of Prairie Gas Operating, LLC ("Operator") to comply with K.A.R. 82-3-603 and K.A.R. 82-3-604 at five wells in Greeley and Hamilton County, Kansas. <b><i>Order Designating a Prehearing Officer and Setting Prehearing Conference</i></b>	18-CONS-3181-CPEN	
18	In the matter of the failure of Urban H. Hickert dba Tyrok ("Operator") to comply with K.A.R. 82-3-120. <b><i>Order Designating Prehearing Officer and Setting Prehearing Conference</i></b>	18-CONS-3190-CPEN	
19	In the matter of the failure of Prairie Gas Operations, LLC ("Operator") to comply with K.A.R. 82-3-126 at the Hoffman G #32-1 in Greeley County, Kansas. <b><i>Order Designating Prehearing Officer and Setting Prehearing Conference</i></b>	18-CONS-3203-CPEN	

The above-captioned matter(s) were approved by the Commission, unless noted as removed.

For the Commission :

  
Pat Apple, Chairman

  
Shari Feist Albrecht, Commissioner

  
Jay Scott Emler, Commissioner

Attest:

  
Lynn M. Retz  
Secretary to the Commission

**UPDATED REPORT AND RECOMMENDATION  
CONSERVATION DIVISION**

**To:** Chairman Pat Apple  
Commissioner Shari Feist Albrecht  
Commissioner Jay Scott Emler

**From:** Ryan A. Hoffman, Director, Conservation Division

*RAH*

**Date:** 1/8/18

**SUBJECT:**

Staff's recommendation on necessary amendments to K.A.R. 82-3-206 and K.A.R. 82-3-307 and request to open an Investigative Docket to begin the regulation amendment process formally.

**EXECUTIVE SUMMARY:**

In an effort to generate a sufficient amount of revenue to meet its statutory and regulatory duties, staff recommends amending regulations K.A.R. 82-3-206 and K.A.R. 82-3-307 to increase the current mills on oil and natural gas production.

**BACKGROUND (UPDATED):**

While revising the two-year budgeting process Commission staff determined the current decline in production and resulting decreased revenue would result in a negative balance in the Conservation Fee Fund during Fiscal Year 2019. This determination was based on several assumptions, primarily that oil and gas production would continue to decline by 6% each year<sup>1</sup> and spending from the Conservation Fee Fund would remain at approved, essentially flat levels. Given these assumptions, staff determined an increase in the mill assessed against a barrel of oil production from 91.00 mills to 147.00 mills. Likewise, staff determined an increase in the mill assessed against one thousand cubic feet of gas (mcf) from 12.90 mills to 20.90 mills. These increases would provide sufficient revenue to meet the budgeted \$8.45 million necessary to administer the statutory and regulatory obligations of the Conservation Division.

Staff called a special Oil and Gas Advisory Committee (Advisory) meeting on November 1, 2017 to discuss this potential change to the regulations and receive feedback from its membership. During the discussion Advisory members made requests for more information from staff and requested follow-up meetings be scheduled to discuss potential alternative mill increases and time to explore other viable plans of action. At a follow-up meeting, staff requested feedback regarding six different mill scenarios. The scenarios evaluated different production decline rates and mill increases based on the various production declines. The scenarios also included an option with a 2% spending decrease.

<sup>1</sup> The actual declines in production for the prior two fiscal years are: FY 2016 Oil 16.01% Gas 11.79%, FY 2017 Oil 11.8% Gas 11.41%.



Staff appeared before the Commission at the Business Meeting on December 21, 2017 to provide an update on the status of the potential mill increases. During the meeting, staff informed the Commission it had received only one recommendation – a joint recommendation submitted by the Kansas Independent Oil and Gas Association (KIOGA) and Eastern Kansas Oil and Gas Association (EKOGA) Advisory representatives.

Staff presented a Report and Recommendation on this topic on January 4, 2018. This is an update to that Report and Recommendation.

**ANALYSIS:**

K.S.A. 74-623(a) gives the agency “the exclusive jurisdiction and authority to regulate oil and gas activities.”

K.S.A. 55-153 establishes the Oil and Gas Advisory Committee and outlines the 12-member makeup of the Committee. K.S.A. 55-152(a) provides “[n]o rules and regulations promulgated pursuant to this section shall be adopted by the commission until recommendations have been received from the advisory committee established by K.S.A. 55-153, and amendments thereto.”

K.S.A. 55-143 establishes the Conservation Fee Fund to administer the pertinent provisions of the Kansas Oil and Gas Act contained in Chapter 55 of the Kansas Statutes Annotated.

K.S.A. 55-183(b) provides that fees, levies, and assessments allowed by Chapter 55 shall be done by or through the adoption of a regulation.

K.S.A. 55-609 provides the Commission with the authority to assess a mill for administering the provisions of the production and sale of crude oil or petroleum statutes.

K.S.A. 55-711 provides the Commission with the authority to assess a mill for administering the provisions of the production and conservation of natural gas statutes.

K.A.R. 82-3-206 establishes a charge of 91.00 mills per barrel of oil used or marketed each month.

K.A.R. 82-3-307 establishes a charge of 12.90 mills per thousand cubic feet of gas sold or marketed each month.

**STAFF’S ANALYSIS (UPDATED):**

The important goal to consider for this process is revenue in the amount of \$8.89 million. That is the revenue necessary for the Conservation Division to continue to operate without a deficit into Fiscal Year 2020. This final revenue number includes expenditures, transfers out, and other income.

There are numerous ways to reach that goal; however, time is of the essence and not all of those methods can be fully explored as viable options at this time. Staff has reviewed the industry recommendation and, given the most recent production data, believes there is room to



compromise from the mill increases and production declines initially presented to attempt to solve the revenue problem. The tables below identify the initial mill increase discussed and industry's recommended increase. All of the tables below adopt the reduction to other income as included on Exhibit 1 to the previous presentation from KIOGA and EKOGA (Industry). The category of "other" revenue consists of amounts received through various other fees such as licensing, plugging, Underground Injection Control, etc.

Table 1 contains the original information distributed to the Advisory with the production amounts updated to reflect the most recent receipts and updated forecasts based on those numbers.

<b>Table 1: KCC Initial (Declines: 6% in oil and gas, mill increases to .147 / .0209)</b>				
	FY19		FY20	
Resource	Production	Revenue	Production	Revenue
Oil	32,917,321	\$ 4,838,846.21	30,942,282	\$ 4,548,515.44
Gas	206,983,114	\$ 4,325,947.07	194,564,127	\$ 4,066,390.25
Other		\$ 514,500.00		\$ 504,210.00
<b>Total</b>		\$ 9,679,293.28		\$ 9,119,115.68

Table 2 uses the Industry recommended production declines and the most recent actual production information.

<b>Table 2: Industry Recommended* (Declines: 2% oil, 4% gas, mill increases to .123 / .0174)</b>				
	FY19		FY20	
Resource	Production	Revenue	Production	Revenue
Oil	34,318,058	\$ 4,221,121.16	33,631,697	\$ 4,136,698.74
Gas	211,387,010	\$ 3,678,133.97	202,931,529	\$ 3,531,008.61
Other		\$ 514,500.00		\$ 504,210.00
<b>Total</b>		\$ 8,413,755.13		\$ 8,171,917.34

\*Staff used Division production actuals and amended forecasts to resolve a discrepancy in the numbers submitted by industry and those staff receives from the Kansas Department of Revenue.

As discussed during the previous presentation, the tables above were deficient in the sense that the ending revenue target was too low as a result of a misunderstanding pertaining to the original formula regarding the category of other income. The correction increases the target from \$8.45 million to \$8.89 million.

During the presentation on January 4, 2018, staff was asked to provide certain information pertaining to the method it uses to forecast production and to provide a table similar to the above which uses a 6% decline for oil production and 5% decline for natural gas production. The table also needed to account for 2% decrease in expenditures from the Conservation Fee Fund.

Staff's formula for forecasting production uses a weighted moving average (WMA). This WMA looks at a narrow timeframe. It essentially uses the prior three months to project future

production with different weights presented to each month. The WMA is calculated by averaging the most recent production numbers but places the most confidence on the production the first month out, less confidence on the second month, and even less on the 3rd month. The equation for Forecasted Production is (1st month \*.6) + (2nd month \*.3) + (3rd month \*.1) = Forecasted Production. In order to forecast production for January, staff would apply the production data to the formula in the following manner:

$$(\text{DEC} \times .6) + (\text{NOV} \times .3) + (\text{OCT} \times .1) = \text{January Forecasted Production}$$

This information initially indicated that the production from oil and natural gas would decline by 6% when extrapolated into the future; however, there were stronger production increases in the recent months that resulted in production decline percentages of 4% for oil and 5% for natural gas. Staff has provided new tables for the Commission outlining different scenarios attached to this document as Exhibit 1. All of the scenarios adopt the 6% reductions to other income as originally contemplated. The tables are attached to this document. The attachment contains two columns (A) and (B). The (A) column maintains the current spending levels and the (B) column reflects a 2% decrease in spending. The 2% spending decrease scenarios are on to the right side of the dividing line. There are three scenarios per column, the first indicating the initial production decline percentage of 6%. The second scenario includes the production declines of 6% for oil and 5% for natural gas as requested during the last presentation. The bottom scenario uses staff's production decline estimates.

**RECOMMENDATION (UPDATED):**

- 1) Staff recommends opening an investigative docket to amend K.A.R. 82-3-206 to increase the mill levy on a barrel of oil from 91 mills.
- 2) Staff further recommends the above-mentioned investigative docket include an amendment to K.A.R. 82-3-307 to increase the mill levy on a mcf of gas from 12.90 mills.
- 3) Staff submits any of the scenarios listed on the attached sheet can plausibly achieve the necessary increase in revenue and seeks guidance as to the Commission's intended direction.
- 4) Staff will begin examining sufficiency of the mill annually through the Oil and Gas Advisory Committee. It should report to the Commission if any regulatory changes are necessary. As part of this process, staff should also consider other sources of revenue for examination and discussion.

Staff Exhibit 1

No Annual CFF Expenditure Reduction (A)				
FY20 Revenue Target of \$8,889,000				
Other Income:				
FY18 - \$492,800; FY19 - \$463,232; FY20 \$435,438 (6% annual decline)				
(Production declines differ in each scenario, FY20 target remains constant)				

KCC Initial (A)				
Declines: 6% in oil, 6% gas annually				
Mill increase to 0.144/BBL Oil, .0205/MCF Gas				
Resource	FY19		FY20	
	Production	Revenue	Production	Revenue
Oil	\$ 32,917,321	\$ 4,752,156	\$ 30,942,282	\$ 4,467,027
Gas	\$ 206,620,095	\$ 4,240,995	\$ 194,222,889	\$ 3,986,535
Other		\$ 463,232		\$ 435,438
Total		\$ 9,456,383		\$ 8,889,000

KCC Requested (A)				
Declines: 6% in oil, 5% gas annually				
Mill increase to 0.143/BBL Oil, .0203/MCF Gas				
Resource	FY19		FY20	
	Production	Revenue	Production	Revenue
Oil	\$ 32,917,321	\$ 4,707,497	\$ 30,942,282	\$ 4,425,048
Gas	\$ 208,818,181	\$ 4,240,551	\$ 198,377,272	\$ 4,028,523
Other		\$ 463,232		\$ 435,438
Total		\$ 9,411,280		\$ 8,889,009

Staff Updated (A)				
Declines: 4% in oil, 5% gas annually				
Mill increase to 0.139/BBL Oil, .0199/MCF Gas				
Resource	FY19		FY20	
	Production	Revenue	Production	Revenue
Oil	\$ 33,617,690	\$ 4,701,807	\$ 32,272,982	\$ 4,513,735
Gas	\$ 208,818,181	\$ 4,147,187	\$ 198,377,272	\$ 3,939,827
Other		\$ 463,232		\$ 435,438
Total		\$ 9,312,226		\$ 8,889,000

Annual CFF Expenditure Reduction of 2% (B)				
FY20 Revenue Target of \$8,419,191				
Other Income:				
FY18 - \$492,800; FY19 - \$463,232; FY20 \$435,438 (6% annual decline)				
(Production declines differ in each scenario, FY20 target remains constant)				

KCC Initial (B)				
Declines: 6% in oil, 6% gas annually				
Mill increase to 0.136/BBL Oil, .0194/MCF Gas				
Resource	FY19		FY20	
	Production	Revenue	Production	Revenue
Oil	\$ 32,917,321	\$ 4,488,049	\$ 30,942,282	\$ 4,218,766
Gas	\$ 206,620,095	\$ 4,005,296	\$ 194,222,889	\$ 3,764,979
Other		\$ 463,232		\$ 435,438
Total		\$ 8,956,578		\$ 8,419,183

KCC Requested (B)				
Declines: 6% in oil, 5% gas annually				
Mill increase to 0.135/BBL Oil, .0192/MCF Gas				
Resource	FY19		FY20	
	Production	Revenue	Production	Revenue
Oil	\$ 32,917,321	\$ 4,445,868	\$ 30,942,282	\$ 4,179,116
Gas	\$ 208,818,181	\$ 4,004,873	\$ 198,377,272	\$ 3,804,629
Other		\$ 463,232		\$ 435,438
Total		\$ 8,913,973		\$ 8,419,183

Staff Updated (B)				
Declines: 4% in oil, 5% gas annually				
Mill increase to 0.132/BBL Oil, .0187/MCF Gas				
Resource	FY19		FY20	
	Production	Revenue	Production	Revenue
Oil	\$ 33,617,690	\$ 4,440,503	\$ 32,272,982	\$ 4,262,883
Gas	\$ 208,818,181	\$ 3,916,706	\$ 198,377,272	\$ 3,720,870
Other		\$ 463,232		\$ 435,438
Total		\$ 8,820,440		\$ 8,419,191